

**Usury.**

Where a mortgage provides for the payment of principal and six per cent. interest, and an additional "premium" of seven dollars and fifty cents per month, the transaction is usurious. Meaning of the word "premium" as used in this section. *White v. Williams*, 90 Md. 723 (mortgage made prior to the act of 1894, ch. 321, and hence not affected thereby). And see *Geiger v. Eighth German, etc., Assn.*, 58 Md. 570.

Act of 1894, ch. 321, only changes this section so far as the time and method of the payment of the premium are concerned, and does not alter the rule that the premium cannot be an indefinite or variable amount, or payable in an indefinite number of small instalments. Transaction held usurious. The statute conferring the privilege of charging a premium is to be strictly construed. *Washington Bldg. Assn. v. Andrews*, 95 Md. 699. And see *Coltrane v. Baltimore, etc., Assn.*, 110 Fed. 293.

The money paid by a building association for the purchase or redemption of stock is not a loan to the shareholder to be repaid by him with interest, and, therefore, no question of usury can arise. Transaction held usurious. This section referred to in construing sec. 151—see notes thereto. *Commercial Assn. v. Mackenzie*, 85 Md. 142. And see *Washington Bldg. Assn. v. Andrews*, 95 Md. 700; *Faust v. Twenty-third, etc., Bldg. Assn.*, 84 Md. 190; *Home, etc., Bldg. Assn. v. Thursby*, 58 Md. 288; *Border State Bldg. Assn. v. McCarthy*, 57 Md. 559; *Baltimore, etc., Society v. Taylor*, 41 Md. 417; *Robertson v. American, etc., Assn.*, 10 Md. 408; *Coltrane v. Baltimore, etc., Assn.*, 110 Fed. 293. *Cf. Williar v. Baltimore, etc., Loan Assn.*, 45 Md. 562; *Citizens', etc., Co. v. Uhler*, 48 Md. 458.

This section and sec. 164 have no application to a corporation chartered for "the purchase and improvement of real estate, advancing money on mortgages," etc., nor to a transaction which is nothing more nor less than a loan of money by an association and a mortgage of the borrower's property for the repayment of the loan with usurious interest. The fact that the borrower becomes a shareholder and the money advanced to him is called a redemption of his shares, is immaterial. *Williar v. Baltimore, etc., Loan Assn.*, 45 Md. 562.

This section cannot be evaded so that more than six per cent. interest may be charged by combining the interest with the weekly instalment payments on the shares of stock. Transaction held usurious. *Peter's Bldg. Assn. v. Jaecksch*, 51 Md. 204.

A mortgage to a building association is not illegal because interest is payable weekly and fines are imposed for non-payment of dues. *Stewart v. Workingmen's Bldg. Assn.*, 106 Md. 682.

**Generally.**

This section referred to in deciding that a building association was liable on a note discounted for the purpose of raising money to pay a borrower the amount advanced to him. *Davis v. West Saratoga, etc., Union*, 32 Md. 294.

This section referred to in construing sec. 164—see notes thereto. *Salisbury Assn. v. Wicomico County*, 86 Md. 619.

For a case involving sec. 35 of art. 26 of the Code of 1860, see *Shannon v. Howard Bldg. Assn.*, 36 Md. 394.

Cited but not construed in *Baltimore Bldg. Assn. v. Powhatan Co.*, 87 Md. 64; *International Fraternal Alliance v. State*, 86 Md. 554; *Faust v. Twenty-third, etc., Bldg. Assn.*, 84 Md. 190; *Middle States Co. v. Hagerstown Mattress Co.*, 82 Md. 513.

As to loans upon chattels, and the rate of interest thereon, see sec. 151.

An. Code, 1924, sec. 165. 1912, sec. 138. 1904, sec. 126. 1888, sec. 99. 1868, ch. 471, sec. 88. 1880, ch. 351. 1894, ch. 321. 1904, ch. 240. 1916, ch. 312. 1929, ch. 226, sec. 165 (p. 720). 1933, ch. 26. 1933 (Special Sess.), ch. 62. 1935, ch. 567.

**164.** The payment of the unpaid installments and the premiums on the share or shares so purchased or redeemed, with interest on the money paid therefor, as aforesaid, and all fines and penalties incurred in respect thereof by any member, shall be secured to such corporation, by mortgage on real or leasehold property, or by the hypothecation of stock of such corporation held by such member or by judgment of a court of law or by a justice of the peace or by a decree of a court of equity all as may be provided in the articles of association or by-laws; but in no case of hypothecation of stock no greater sum of money shall at any time be drawn out by any member than shall have been already paid in by him on all his shares at the time of said hypothecation, and all homestead or building associations organized under the laws of this State are hereby prohibited from investing in any other manner than in cash, fixtures, or loans on hypothecated stock of such association, judgments or decrees for payment of money received